

BEFORE
THE PUBLIC SERVICE COMMISSION
OF SOUTH CAROLINA
DOCKET NO. 2017-__-E

IN RE:

Request of the South Carolina Office of)
 Regulatory Staff for Rate Relief to)
 SCE&G Rates Pursuant to)
 S.C. Code Ann. § 58-27-920)
 _____)

**REQUEST FOR RATE RELIEF
 TO SCE&G RATES PURSUANT TO
 S.C. CODE ANN. § 58-27-920.**

Introduction

1. Pursuant to S.C. Code Ann. §§ 58-4-50 (duties and responsibilities of South Carolina Office of Regulatory Staff (“ORS”)), 58-27-810 (rates shall be just and reasonable), 58-27-920 (schedule of rates put into effect after a preliminary investigation by ORS) and other applicable law, ORS submits this Request for Rate Relief to South Carolina Electric & Gas (“SCE&G”) Rates (“Request”) for the Public Service Commission of South Carolina (“the Commission”) to order as soon as possible that:

- a. SCE&G immediately suspend all revised rates collections from customers (“suspension order”); and,
- b. If the General Assembly takes action to amend or revoke the Base Load Review Act (“BLRA”) or a court of competent jurisdiction declares the BLRA unconstitutional, that the Commission amend its suspension order in this docket to require that:
 - i. SCE&G cease and desist from collecting revised rates;

- ii. Credits to future bills or refunds be made to customers for prior revised rates collections, and
- iii. All other actions be taken as instructed by the General Assembly or a court of competent jurisdiction.

Background

- 2. The Commission is vested with the power and jurisdiction to supervise and regulate the rates of every public utility in South Carolina. S.C. Code Ann. § 58-3-140(A).
- 3. SCE&G is a public utility regulated by the Commission.
- 4. SCE&G requested and was granted a Base Load Review Order (“BLRA Order”) for the construction of V.C. Summer Nuclear Units 2 and 3 (“the Units” or “Project”) pursuant to the BLRA, S.C. Code Ann. § 58-33-210 *et seq.*, in Commission Docket No. 2008-196-E, Order No. 2009-104(A).
- 5. SCE&G is 55% owner of the Units and Santee Cooper, an entity not regulated by the Commission, owns the remaining 45%.
- 6. SCE&G has announced its intent to seek approval of an abandonment plan for the Units.
- 7. Westinghouse Electric Corporation, LLC was the primary contractor for the Units prior to its March 29, 2017 bankruptcy declaration.
- 8. ORS is a statutory party in all matters before the Commission pursuant to S.C. Code Ann. § 58-4-10(B).
- 9. S.C. Code Ann. § 58-27-920 allows the Commission to put into effect a schedule of rates as shall be deemed fair and reasonable by order no less than fifteen days after a preliminary investigation by ORS and upon such evidence as the Commission deems sufficient.

10. The BLRA entitled SCE&G, through an annual statutory process called revised rates, to collect from its customers financing costs based on the Units' incurred construction costs as long as the Units was on schedule and budget as set forth in its BLRA Order. S.C. Code Ann. §§ 58-33-220(17), 58-33-275-(E) and (C) and 58-33-280. Revised rates proceedings are paper proceedings in which the Commission is required to authorize the revised rates four months after SCE&G's request for revised rates unless it is shown that (1) a "material and adverse deviation" from the approved schedules occurred and (2) if a material and adverse deviation is shown, then costs would be disallowed "only to the extent that the failure by the utility to anticipate or avoid the deviation, or to minimize the resulting expense, was imprudent considering the information available at the time that the utility could have acted to avoid the deviation or minimize its affect." S.C. Code Ann. §§ 58-33-280 and 58-33-275(E).

11. SCE&G availed itself of the revised rates entitlement annually through 2016 – nine times. The table below illustrates the proceedings:

SCE&G's Requested Rate Increases					Approved Rate Increases			
Docket No.	Order No.	Requested Revenue Increase	Requested Retail Increase	Requested Residential Bill Increase	ORS Reduction	Approved Increase	Approved Retail Increase	Approved Residential Increase
2008-196-E	2009-104(A)	\$8,986,000	0.49%	\$0.54	(\$1,183,509)	\$7,802,491	0.43%	\$0.48
2009-211-E	2009-696	\$22,533,000	1.10%	\$1.31	\$0	\$22,533,000	1.10%	\$1.31
2010-157-E	2010-625	\$54,561,000	2.73%	\$3.33	(\$7,260,000)	\$47,301,000	2.31%	\$2.87
2011-207-E	2011-738	\$58,537,000	2.70%	\$3.58	(\$5,753,658)	\$52,783,342	2.43%	\$3.23
2012-186-E	2012-761	\$56,747,000	2.53%	\$3.57	(\$4,598,087)	\$52,148,913	2.33%	\$3.28
2013-150-E	2013-680(A)	\$69,671,000	2.97%	\$4.32	(\$2,430,768)	\$67,240,232	2.87%	\$4.18
2014-187-E	2014-785	\$70,038,000	2.99%	\$4.34	(\$3,800,000)	\$66,238,000	2.82%	\$4.11
2015-160-E	2015-712	\$69,648,000	2.78%	\$4.01	(\$5,122,000)	\$64,526,000	2.57%	\$3.71
2016-224-E	2016-758	\$74,161,000	3.06%	\$4.44	(\$9,733,000)	\$64,428,000	2.66%	\$3.86
TOTAL		\$484,882,000		\$29.44	(\$39,881,022)	\$445,000,978		\$27.03

12. SCE&G is currently collecting approximately \$37 million per month from customers in revised rates.

SUPPORT FOR THE REQUEST

13. On August 24, 2017 Representatives G. Murrell Smith, Jr., Leon E. Stavrinakis, J. Gary Simrill, and James E. Smith, Jr. sent a letter to Assistant Deputy Robert D. Cook of the South Carolina Office of Attorney General requesting an opinion as to whether the BLRA is in accordance with the Constitution of the State of South Carolina.

14. On September 26, 2017, the Attorney General Opinion was issued opining the constitutionality of the BLRA is suspect.

It is our opinion that, as applied, portions of the Base Load Review Act are constitutionally suspect. The Act fails to strike the constitutionally required balance between investors and ratepayers. It also denies ratepayers procedural due process. The Act further rewards abandonment of nuclear projects such that ratepayers must pay the utility's costs plus a substantial rate of return for investors without receiving any service from the plants. Such a provision, once abandonment is declared, transfers private property (ratepayers' money) to another private entity (the utility) for a private use (payment to utility's investors).
[Opinion pg. 1.]

15. As a result of the Attorney General Opinion, the General Assembly is likely to take action to amend or revoke the BLRA or a court will be asked to issue an order ruling on the BLRA's constitutionality.

16. Based on ORS's review of the Attorney General Opinion, it is not just and reasonable or in the public interest to allow SCE&G to continue collecting revised rates.

17. In addition, it is being alleged that SCE&G failed to disclose information that should have been disclosed and that would have appeared to provide a basis for challenging prior requests. SCE&G should not be allowed to continue to benefit from nondisclosure.

18. By this Request, ORS respectfully submits it is fair, reasonable and in the public interest for the Commission to order as soon as possible that SCE&G immediately suspend revised rates collections from customers.

WHEREFORE, ORS respectfully requests the Commission to order the relief requested below.

19. First, that SCE&G immediately suspend all revised rates collections from customers (the suspension order).

20. Second, if the General Assembly takes action to amend or revoke the Base Load Review Act ("BLRA") or a court of competent jurisdiction declares the BLRA unconstitutional, that the Commission amend in this docket its suspension order to require that:

- a. SCE&G cease and desist from collecting revised rates,
- b. Credits to future bills or refunds be made to customers for prior revised rates collections, and
- c. All other actions be taken as instructed by the General Assembly or court of competent jurisdiction.

21. Lastly, any other action or relief the Commission may deem necessary or appropriate.

Respectfully submitted,

SOUTH CAROLINA OFFICE
OF REGULATORY STAFF

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